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August 7, 1996

Federal Communications Commission  
Office of the Secretary  
1919 M Street, N.W.  
Washington, D.C. 20554

RECEIVED  
AUG - 7 1996  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

**Re: *Ex Parte* Submission**  
**Notice of Proposed Rulemaking**  
**ET Docket No. 95-183, RM-8553, PP Docket No. 93-253**

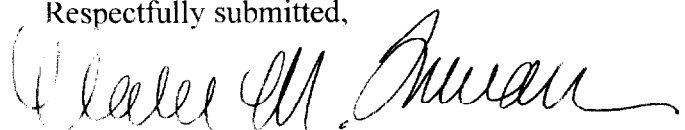
Dear Mr. Caton:

On behalf of Advanced Radio Telecom Corp., copies of the attached memorandum were hand delivered today to each of the following members of the Commission's staff: Rosalind Allen, Associate Bureau Chief of the Wireless Telecommunications Bureau, Robert MacNamara, Chief of the Private Wireless Division of the Wireless Telecommunications Bureau, David Horowitz, Deputy Chief of the Private Wireless Division of the Wireless Telecommunications Bureau, Jackie Chorney, Legal Advisor to Chairman Hundt, Suzanne Toller, Legal Advisor to Commissioner Chong, David Siddall, Legal Advisor to Commissioner Ness, Rudolfo Baca, Legal Advisor to Commissioner Quello and D'wana Speight, Legal Advisor in the Wireless Telecommunications Bureau.

Pursuant to Section 1.1206(b)(5) of the Commission's Rules, the original and four copies (two for each Docket number) of the memorandum are being submitted for inclusion in the public record for the above-captioned proceeding. Please place a copy of this filing in the Commission's public file for the above-captioned dockets.

Please address any inquiries regarding this filing to the undersigned.

Respectfully submitted,



Valerie M. Furman  
Counsel for Advanced Radio Telecom Corp.

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**MEMORANDUM**

**TO:** FCC STAFF

**FROM:** W. Theodore Pierson, General Counsel *WTP*

**SUBJECT:** NPRM on 38 GHz, ET Docket No. 95-183, RM-8553; PP Docket No. 93-253 --  
Modified build-out proposal

**DATED:** 8/05/96

In its initial comments in response to the NPRM, ART proposed a construction schedule based upon links per square kilometer. After further experience and consideration, ART has concluded that a "link" approach is antithetical to technological change and spectrum efficiency. Using links as a benchmark would not encourage spectrum efficiency because a single DS-1 would count as much as a DS-3, which has 28 times the capacity. Furthermore, applying a "link" approach would be difficult to apply when the technology moves to a point-to-multi-point environment.

For these reasons, ART urges the Commission to adopt the following "bits-per-Hertz" benchmark.

18 months ----- 1.0 Mbps per each 750,000 segment of the population

48 months ----- 3.0 Mbps/750,000 population

60 months ----- 4.0 Mbps/750,000 population.

These criteria would be applied to each authorized 38 GHz service area in the aggregate, on a channel by channel basis. In order to satisfy the criteria, the bits-per-Hertz would have to be the subject of a contract for commercial, revenue-producing in effect at the time of the benchmark.

The time lines would be measured from the date of Commission adoption of the proposal.